

**ORDINANCE NO. \_\_\_\_\_**

The City Attorney has prepared the following summary of Ordinance Number \_\_\_\_\_.

Ordinance number \_\_\_\_\_ provides that no person elected as a councilmember of the city shall, subsequent to such election, be eligible for appointment as city manager or as a department head until four years have elapsed after such council member has ceased to be a member of the city council.

A copy of the ordinance is available for review in the City Clerk's Office at City Hall located at 608 Heber Avenue, Calexico, California. This ordinance was introduced at the regularly scheduled City Council meeting of November 18, 2008. It is scheduled for adoption at the regular meeting of December 2, 2008.

## **CITY COUNCIL AGENDA REPORT**

**SUBJECT: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALEXICO ADDING A NEW CHAPTER 2.07 "CITY COUNCIL-ELIGIBILITY FOR FUTURE CITY EMPLOYMENT" AND AMENDING CHAPTER 2.02 BY DELETING SECTION 2.02.030 IN ITS ENTIRETY**

**AGENDA DATE:** December 2, 2008

**PREPARED BY:** Jennifer M. Lyon, City Attorney

**APPROVED FOR AGENDA BY:** Requested by Mayor Fuentes and Councilmember Romero

**RECOMMENDATION:** Consider ordinance. If Council chooses, adopt ordinance by way of title only, waive full reading of the ordinance.

**FISCAL IMPACT:** None.

**BACKGROUND:** Calexico Municipal Code section 2.02.030 currently provides that outgoing councilmembers are not eligible for appointment to the city manager position for one year after leaving office. State law does not specifically address the issue of outgoing councilmembers seeking employment with the City except to the extent that Government Code section 1090 prohibits councilmembers from arranging for future employment with the City while the councilmember is still in office. Government Code section 87406.3 prohibits outgoing councilmembers from being paid to lobby the City on behalf of another person/entity within one year of leaving office.

**DISCUSSION (Current consideration):** Mayor Fuentes and Councilmember Romero requested that this item be prepared and placed on the agenda for Council consideration. The draft ordinance attached prohibits former councilmembers from being eligible for employment with the City as the city manager or as a department head for four years after leaving office. The key concern is to limit the amount of influence that remains after a councilmember has left office.

**Agenda Item No. \_\_\_\_\_**  
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**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
CALEXICO ADDING A NEW CHAPTER 2.07 "CITY COUNCIL-  
ELIGIBILITY FOR FUTURE CITY EMPLOYMENT" AND  
AMENDING CHAPTER 2.02 BY DELETING SECTION 2.02.030 IN  
ITS ENTIRETY**

**WHEREAS**, councilmembers work closely with other councilmembers and the city manager while serving in public office; and

**WHEREAS**, councilmembers hold the highest position in the City while in office and have great influence over all decisions related to the City; and

**WHEREAS**, Calexico Municipal Code section 2.02.030 currently provides that outgoing councilmembers are not eligible for appointment to the city manager position for one year after leaving office; and

**WHEREAS**, the City Council finds that there is a need to extend the eligibility limitation to other key positions in the City such as the department head positions because the City has a compelling interest in ensuring that the best candidates serve in these key positions for the City; and

**WHEREAS**, the City Council further finds that it is necessary to extend the eligibility limitation to five years from the time a councilmember has left office because this will be sufficient time for council members who served with the subject councilmember to have left office thus discouraging any instances of undue influence or bias that could remain after a councilmember has left office; and

**WHEREAS**, state law does not address the issue of outgoing councilmembers seeking employment with the City except to the extent that Government Code section 1090 prohibits certain activities and Government Code section 87406.3 prohibits lobbying activities of outgoing councilmembers; and

**WHEREAS**, this is a matter of local concern and the City has a compelling interest to regulate this conduct so that the key employment positions in the City will be filled by qualified candidates chosen in an impartial and unbiased manner, especially based on the size of the City.

**NOW, THEREFORE**, the City Council of the City of Calexico does ordain as follows:

**SECTION 1.** That the above-listed recitals are true and correct.

**SECTION 2.** Chapter 2.02, Section 2.02.030 "Eligibility" is hereby repealed as follows:

**~~"2.02.030-Eligibility.~~**

~~No person elected as councilman of the city shall, subsequent to such election, be eligible for appointment as city manager until one year has elapsed after such council member has ceased to be a member of the city council."~~

**SECTION 3.** Chapter 2.07 "City Council- Eligibility for Future City Employment" is hereby added to read as follows:

**"Chapter 2.07 CITY COUNCIL- ELIGIBILITY FOR FUTURE CITY EMPLOYMENT**

**2.07.010. Eligibility.**

No person elected as a councilmember of the city shall, subsequent to such election, be eligible for appointment as city manager or as a department head until four years have elapsed after such council member has ceased to be a member of the city council."

**SECTION 4.** This ordinance shall apply to all past and present members of the Calexico City Council.

**SECTION 5:** This ordinance will take effect thirty (30) days after the date of its passage and adoption.

**SECTION 6:** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remainder of the Ordinance. The Council hereby declares that it would have adopted this Ordinance, and each section, subsection, sentence, clause, phrase or portion hereof, irrespective of that fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

**SECTION 7.** The City Clerk shall certify to the adoption of this Ordinance and shall cause this ordinance, or a summary thereof, to be published as required by law.

**PASSED, APPROVED AND ADOPTED this 2nd day of December, 2008.**

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Louis Fuentes  
Mayor

ATTEST:

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Lourdes Cordova  
City Clerk

I, Lourdes Cordova, City Clerk of the City of Calexico and ex-officio Clerk of the Council, do hereby certify under penalty of perjury that the foregoing is a true and correct copy of Ordinance No. \_\_\_\_\_ that was duly and regularly introduced at a regular meeting of said City Council held on \_\_\_\_\_, 2008 and was adopted by said City Council at a regular meeting held on \_\_\_\_\_, 2008, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Lourdes Cordova, City Clerk